What is Civil Liability?

The Person who causes a damage shall compensate it!
Perequisites for Liability (Standard):

Person:
Damage:
Causation:
Fault:

(Fault based Liability)

Liability for dangerous activities

Person:
Damage: (strict liability)
Causation:
Dangerous activity
Evidence of fault?
Federal Law relating to the Protection of the Environment:

Liability for activities dangerous to the environment

Scope:
- nature of the liability: strict liability:
- time limits: 1/10
- unlimited
- Insurance and other financial guarantees
What is the purpose of a regulation on liability and compensation to the benefit of the environment?

- Prevention
- Compensation
- Involvement of the private sector
- (Insurance industry, financial sector)
- Using the market forces to fix the premium in relation to the risks
Existing Liability Regimes and Biosafety/ IELRC Side-event Putra World Trade Centre Pahang, 26 February 2004, Kuala Lumpur

- Contained use of organisms
- Release for experimental purposes with genetically modified organisms (field trials)
- Release of organisms into the environment
  - Marketed genetically modified organisms (seeds, commodities)
Marketed genetically modified organisms
Chanelling of the liability

- Marketed genetically modified organisms (seeds) causing a damage
  - No liability
  - No compensation
- GMO-farmer
- Seedproducer
Solution

Marketed genetically modified organisms (seeds) causing a damage

Right of recourse against

Persons who have handled such organisms inappropriately or have otherwise contributed to the occurrence or exacerbation of the damage (GMO-farmer)

seedproducer
Contained use of organisms

Strict liability of the permitholder

Release for experimental purposes with genetically modified organisms (field trials)

Strict liability of the permitholder

Marketed genetically modified organisms (seeds)

Strict liability of the permitholder if the victim is a farmer or a consumer of a product of a farmer
Marketed genetically modified organisms (seeds)

Strict liability of the permitholder if the victim is a farmer or a consumer of a product of a farmer

Product liability in all other cases
Unlimited Liability

Time Limit

3 Years

30 Years
Important elements

- Damage to the environment must be compensated
- Optional financial guarantees
- Facilitation of the burden of proof